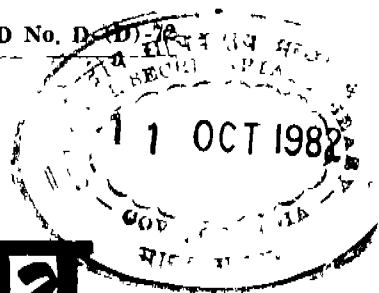




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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following report of the Joint Committee of the Houses, appointed to examine the question of the working of the Dowry Prohibition Act, 1961 and to suggest amendments which may be made in the law for dealing effectively with the evil of dowry system, was presented to Lok Sabha on 11 August, 1982:—

COMPOSITION OF THE COMMITTEE

Shrimati Krishna Sahi—*Chairman*

MEMBERS

Lok Sabha

2. Dr. Rajendra Kumari Bajpai
3. Shrimati Vidyavati Chaturvedi
4. Shrimati Usha Prakash Choudhari
- *5. Shrimati Pramila Dandavate
6. Shrimati Suseela Gopalan
7. Shri Jagpal Singh
8. Shri Satyanarayan Jatiya
9. †Shrimati Kailash Pati
10. Shrimati Mohsina Kidwai

*Nominated w. e. f. 26.3.1981 till Shri G. Palaniappan resigned.

†Nominated w. e. f. 21.4.1982 vice Shrimati Sukhmani Kaur resigned.

11. Shri Anantha Ramulu Mallu
12. Shrimati Sanyogita Rane
13. Shri K. P. Unnikrishnan
- @14. Shri Jagan Nath Kaushal

Rajya Sabha

15. Shrimati Margaret Alva
16. Shrimati Premilabai Dajisaheb Chavan
17. Shrimati Usha Malhotra
18. Shrimati Kanak Mukherjee
19. Dr. (Shrimati) Sathiavani Muthu
20. Shrimati Manorma Pandey
21. Shri B. Satyanarayan Reddy

SECRETARIAT

1. Shri H. G. Paranjpe—*Joint Secretary*
2. Shri S. D. Kaura—*Chief Legislative Committee Officer*
3. Shri T. E. Jagannathan—*Senior Legislative Committee Officer.*

REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY
AFFAIRS (LEGISLATIVE DEPARTMENT)

1. Shrimati V. S. Rama Devi—*Joint Secretary and Legislative Counsel.*
2. Shri B. R. Atre—*Deputy Legislative Counsel.*
3. Dr. Raghubir Singh—*Assistant Legislative Counsel.*
4. Shri S. M. Rai—*Assistant Draftsman (Official Languages Wing).*

**REPORT OF THE JOINT COMMITTEE OF THE HOUSES TO
EXAMINE THE QUESTION OF THE WORKING OF THE DOWRY
PROHIBITION ACT, 1961**

INTRODUCTION

I, the Chairman of the Joint Committee of the Houses, appointed to examine the question of the working of the Dowry Prohibition Act, 1961 and to suggest amendments which may be made in the law for dealing effectively with the evil of dowry system, having been authorised to submit the Report on their behalf, present their Report.

2. The Committee were appointed on a motion adopted in Lok Sabha on 19 December, 1980 and concurred in by the Rajya Sabha on 24 December, 1980.

3. The Committee held 41 sittings in all.

4. The first sitting of the Committee was held on 29 January, 1981 to draw up their programme of work. The Committee decided to invite memoranda containing suggestions for amendments to the Dowry Prohibition Act, 1961 from the State Governments/Union Territory Administrations, Public Bodies, Women's and Voluntary Social Organisations, individuals, etc. by 13 February, 1981. The Committee also decided to hear oral evidence from the interested parties/individuals, etc. A Press Communique inviting memoranda and requests for oral evidence was accordingly issued on 30 January, 1981. As per decision of the Committee, All India Radio/*Doordarshan Kendra* were also requested to broadcast/telecast the contents of the Press Communique through all stations of All India Radio/*Doordarshan Kendras* respectively. In order to expedite and facilitate their task, the Committee also decided that a Questionnaire on the subject might be prepared.

5. At their Second Sitting held on 18 February, 1981, the Committee considered and approved the Questionnaire prepared by the Ministry of Law, Justice and Company Affairs. The Questionnaire was circulated to the Chief Secretaries of all State Governments/Union Territory Administrations, Women's and Voluntary Social Organisations, Members of Parliament and other interested Parties/individuals, etc. They were requested to send their replies to the Questionnaire by 14 March, 1981.

6. At the sitting held on 18 March, 1981, the Committee, on the suggestion of some members of the Committee, decided to extend the time for receiving comments/suggestions for amendments to the Act up to 7 April, 1981. Accordingly as per decision of the Committee, a Press Communique was again issued on 18 March, 1981 for giving wide publicity through regional and language newspapers in the country for submission of memoranda, etc. by the said date. The All India Radio and the *Doordarshan Kendra* were also requested to

broadcast and telecast the contents of the Press Communiqué through all Stations of All India Radio and Doordarshan Kendras respectively.

7. 288 Memoranda|representations containing views|comments| suggestions for amendments to the Dowry Prohibition Act, 1961 and 235 replies to the Questionnaire were received from various Women's and Voluntary Social Organisations, Bar Councils, Bar Associations, State Governments, State Social Welfare Boards, public bodies and individuals, etc.

8. The Committee, in order to acquaint themselves with the acute problem of the evils of dowry system prevailing in the country, to ascertain the facts and figures of the incidence of the system among different sections of the society and to hear the views of the cross-section of the society in the country particularly from those who were not in a position to come to Delhi, decided to undertake study visits to some selected places in the country. The Committee also decided to hold their formal sittings for the purpose of hearing oral evidence of the representatives of various Women's and Voluntary Social Organisations, State Governments, State Social Advisory Boards, Bar Councils, Bar Associations, other interested parties, individuals, etc. at different places in the country in different phases.

9. The Committee accordingly undertook study visits to Panaji, Pune, Bombay and Bangalore from 19 to 26 May, 1981 and heard the views of the representatives of various Women's and Voluntary Social Organisations and the State Governments/State Social Welfare Boards of Maharashtra, Karnataka and the Union Territory Administration of Goa, Daman and Diu.

10. The Committee also held their formal sittings at New Delhi (on 17 and 18 June, 1981 and again on 9 and 10 November, 1981); at Hyderabad, Guntur, Indore and Bhopal (from 14 to 21 July, 1981); at Patna (on 25 and 26 September, 1981); at Lucknow, Calcutta and Bhubaneswar (from 8 to 15 January, 1982); at Chandigarh (on 15 and 16 February, 1982); at Jaipur, Udaipur, Rajkot and Ahmedabad (from 31 May to 8 June, 1982) and heard the oral evidence of the representatives of the respective State Governments/State Social Welfare Boards, Bar Councils|Bar Associations, Women's and Voluntary Social Organisations, various other organisations, individuals, etc.

11. 617 Witnesses representing both officials and non-officials, viz. Women's and Voluntary Social Organisations, Bar Councils, Bar Associations, other organisations, individuals, etc. from cross-section of the society appeared before the Committee for tendering oral evidence.

12. The Report of the Committee was to be presented by 20 February, 1981. The Committee were granted four extensions of time for presentation of their Report—first on 19 February, 1981 up to 18 September, 1981; second on 20 August, 1981 up to 24 December, 1981; third on 1 December, 1981 up to 30 April, 1982 and fourth on 16 April, 1982 up to the last day of Winter Session, 1982.

13. At their sitting held on 1 February, 1982, the Committee decided that the evidence tendered before the Committee might be laid on the Table of both Houses of Parliament.

14. At their sittings held on 7 August and 2 December, 1981, the Committee held general discussion on the suggestions contained in the memoranda, replies to the Questionnaire and evidence tendered before the Committee *vis-a-vis* various sections of the Dowry Prohibition Act, 1961.

At their sittings held on 1, 2 and 3 February, 12 March, 14 April and 5 May, 1982, the Committee continued the general discussion on the various points made before them. The Committee, with a view to arrive at a consensus, also held discussion on the amendments given notice of by the members to various sections of the Act.

15. At their sitting held on 5 May, 1982, the Committee decided to appoint a Drafting Sub-Committee for the purpose of preparing the draft Report of the Committee and authorised the Chairman to nominate the members to the Sub-Committee. The Chairman nominated the following 7-member Drafting Sub-Committee on 11 June, 1982:

1. Shrimati Krishna Sahi—*Chairman*
2. Shrimati Pramila Dandavate
3. Shrimati Suseela Gopalan
4. Shrimati Mohsina Kidwai
5. Shrimati Sanyogita Rane
6. Shrimati Margaret Alva
7. Shri B. Satyanarayan Reddy.

16. The Drafting Sub-Committee submitted their Report to the Joint Committee on 6 August, 1982.

17. The Committee considered and adopted the Report at their sitting held on 6 August, 1982.

CHAPTER I

BACKGROUND

A. Origin of the Dowry System

1.1 The origin of the Dowry system is unbelievably modest with no hint of the vast potentialities displayed by it these days. The ancient marriage rites in the *vedic* period are associated with *Kanyadan* or the ceremony of giving away the bride. According to *Hindus shastras*, the meritorious act of *dan* or ritual gift is incomplete till the receiver is given a *dakshina*. So when a bride is given over to the bridegroom, he has to be given something in cash or kind which constitutes *varadakshina*. Thus *Kanyadan* became associated with *varadakshina*, i.e. the cash or gifts in kind by the parents or guardian of the bride to the bridegroom. This *varadakshina* or dowry in those days included ornaments and clothes, which the parents of the bride could afford and were given away as the property of the bride. This *varadakshina* was offered out of affection and did not constitute any kind of compulsion or consideration for the marriage. It was a voluntary practice without any coercive overtones. The *Dharmashastras* suggest that the maintenance (*vrithi*) and ornaments (*abandhyam*) were the bride's property (*streedhana*) over which she enjoyed complete right and which would provide her financial protection in adverse times. The dowry system, as originally devised, provided post-marital security to an otherwise hapless (*abala*) bride. It appears to assume its present form with the degradation of the status of women in society. In course of time, the voluntary element in dowry has disappeared. The coercive element has slowly crept in and took deep roots in both the marriage ceremony and post-marital relationship. Thus, what was originally intended to be a token *Dakshina* for the bridegroom has now assumed enormous proportions and as a price for the alliance.

B. Genesis of Dowry Prohibition Act, 1961

(i) Work done by Social Reformers

1.2 The social reformers of the Nineteenth and early Twentieth centuries—beginning with Raja Rammohan Roy, Ranade, Karve, Ramabai, Ishwara Chandra Vidya Sagar, Mahatma Gandhi, Mahatma Jyotiba Phule and Dr. Babasaheb Ambedkar—had striven hard for the abolition of various social evils including the evil of dowry system from which the Indian women suffered. Mahatma Gandhi laid special stress on the abolition of the evil of dowry system and said "There is no doubt the custom is heartless. The (dowry) system has to go. Marriage must cease to be a matter of arrangement made by parents for money."

However, the Society, because of its tradition mindedness and greed, has not yet fulfilled this cherished desire of Mahatma Gandhi and other social reformers. The Society, on the other hand, because

of the change caused by modernisation, urbanisation and industrialisation, has fostered the frankensteinian growth of the dowry system instead of uprooting it.

(ii) *Sind Deti-Leti Act, 1939*

1.3 Long before India became independent, the then provincial Government of Sind passed an enactment known as "Sind Deti Leti Act, 1939" with a view to deal effectively with the evils of dowry system. Even though the Act contained exhaustive provisions which, *inter alia*, prohibited giving and taking of dowry as part of contract of betrothal or marriage; prescribed limits for giving and taking of dowry as per specified list and provided punishment for contravention of the provisions of the Act, yet the enactment had neither any impact nor could create the desired effect.

(iii) *Dowry system in recent times*

1.4 During the last few decades India has witnessed the emergence of the evils of dowry system in a more acute form in almost all parts of the country practised by almost all sections of the society for which the socio-economic factors were responsible. Those in the higher strata of society, with both accounted and unaccounted wealth at their disposal, started giving costly gifts, ornaments and celebrating the marriages ostentatiously. Following them, the less well-to-do people also tried to catch up with the well-to-do sections of the society and started demanding dowry. The result was that the twin evils of dowry and ostentation started percolating down from the rich to the poor, and covered alike the literate and illiterate, towns and villages and this evil system engulfed almost all sections of the society irrespective of caste, creed and religion. The enactment of the Hindu Succession Act, 1956, which provides for equal share in the father's property to the daughters and sons but does not give right to the daughters to ask for partition of the dwelling-house, appears to have unintentionally contributed to the evils of the dowry system as the prospective in-laws, instead of claiming the share of their daughter-in-law in her father's property after the marriage, prefer to demand the same in the form of dowry in the marriage.

(iv) *Pre-1961 Dowry Prohibition legislations passed by the State Governments of Bihar and Andhra Pradesh*

1.5 After independence, the State Governments of Bihar and Andhra Pradesh, faced with the acute problem of the dowry system in their respective States, enacted "The Bihar Dowry Restraint Act, 1950" and "The Andhra Pradesh Dowry Prohibition Act, 1958" respectively, with the sole purpose of eradicating the practice of dowry system from their respective States.

1.6 The Bihar Dowry Restraint Act, 1950 defined "dowry" as anything paid or delivered as consideration of a contract of any betrothal or marriage and it also prescribed limit on the amount to be paid in cash or kind on different occasions but excluded voluntary marriage gifts. It also made the act of taking dowry punishable with simple imprisonment up to six months or fine up to the value of

dowry or with both and the act of giving or abetting the taking or giving of dowry punishable with simple imprisonment up to one month or fine up to one thousand rupees or with both. The Act further provided that no prosecution in respect of any offence was to commence against any person without giving notice to show cause.

1.7 Similarly, the Andhra Pradesh Dowry Prohibition Act, 1958 defined "dowry" as any property or valuable security given or agreed to be given *as consideration for any betrothal or marriage*. It made the act of giving or taking of dowry as unlawful and any agreement in that regard as void. It had also made the act of giving or taking or abetting the giving or taking of dowry punishable with imprisonment up to six months or fine up to one thousand rupees or with both. It further provided that an offence under that Act would be tried by a First Class Magistrate *on a complaint* made within one year from the date of the offence.

1.8 Both these enactments failed to achieve the objectives for which they were enacted for they contained loopholes. In the first place, it was not possible to prove that any amount so paid or any property so given were "as consideration for the betrothal or marriage" and secondly because of the absence of any agency for initiating action on the contravention of the provisions of the said Acts as the bride's parents would not, in the interest of girl, prefer a complaint.

(v) *Introduction and passage of the Dowry Prohibition Bill, 1959.*

1.9 As the problem was assuming enormous proportions, it started agitating the minds of the people both outside and inside the State Legislatures and the Parliament. Right from the inception of First Lok Sabha, the matter was raised in the Parliament time and again and various proposals for restraining dowry were introduced in Parliament in the form of Private Members' Bills. During the course of discussion on a non-official Bill, sponsored by Shrimati Uma Nehru, M.P., in the Lok Sabha on 27 November, 1953, the then Minister of Law gave an assurance to the House that a Bill on the subject would be prepared in consultation with the State Governments. In pursuance of the assurance, a Bill was subsequently prepared and submitted for consideration of the Cabinet in the light of the views expressed by the State Governments. The Cabinet then decided that the proposal might be held in abeyance till the enactment of the Hindu Succession Act. After the enactment of the said Act in 1956, the Government felt that a separate legislation to prohibit dowry was not a matter of urgency. However, since the problem continued to increase by leaps and bounds, the issue was raised repeatedly by members in Parliament and certain Private Members' Bills on the subject were introduced in various State Legislatures as also in the Parliament. In view of the persistent nature of the problem and on account of pressure both at political and social levels, the Government finally decided to process the legislation. As a result, the Dowry Prohibition Bill, 1959, with the main object of eradicating the evils of dowry system, was introduced by the Government in the Lok Sabha on 24 April 1959 (*Appendix VI*). After some discussion,

the Bill was referred to a Joint Committee of both Houses of Parliament in September, 1959 for examination and Report. The Joint Committee presented their Report with some amendments in the Bill on 19 November, 1959. When the Bill, as reported by the Joint Committee, was taken up for consideration in Lok Sabha, the Lok Sabha, in their wisdom, made an amendment in the Bill, as reported by the Joint Committee, by inserting Explanation I to clause 2 of the Bill so as to make it clear that *bona fide* gifts might not be deemed as dowry. However, when the Bill, as passed by Lok Sabha, was taken up for consideration in Rajya Sabha, the Rajya Sabha, in their wisdom, did not accept the aforesaid amendment to the Bill proposed by Lok Sabha. As the Houses (Lok Sabha and Rajya Sabha) finally disagreed as to the amendments to be made to the Bill in question, the Bill was considered at the Joint Sitzings of both Houses of Parliament held on 6 and 9 May, 1961 and passed. The said Act, namely, the Dowry Prohibition Act, 1961 came into force from 1 July, 1961.

C. Dowry Prohibition Legislations passed by State Governments after 1961

1.10 Even after the enactment of the Dowry Prohibition Act, 1961, the problem of dowry system, on account of diversity and variety of custom prevalent in different parts of the country, continued to grow in different ways and this has been engaging the attention of the Government for some years. In order to check the growth and to curb the evils of the system, the Central Government allowed the individual State Governments to process and carry out amendments in the Dowry Prohibition Act, 1961 in the light of local conditions. Accordingly, under Article 246(2) read with Article 254(2) of the Constitution of India, the Governments of Bihar, West Bengal, Orissa, Haryana, Himachal Pradesh and Punjab passed enactments amending the Dowry Prohibition Act, 1961 in their application to their respective States. The main important features of the amendments made by the State Governments to the Act are briefly indicated below:—

(i) *The Dowry Prohibition (Bihar Amendment) Act, 1975*

1.11 The enactment substituted Sections 3, 4 and 8 of the Dowry Prohibition Act, 1961 by new Sections. These amendments provided for both imprisonment up to six months *and*, fine up to five thousand rupees for giving, taking and demanding dowry *and* also made the offences under the Act as cognizable and non-bailable.

(ii) *The Dowry Prohibition (West Bengal Amendment) Act, 1975*

1.12 The amending Act amended Sections 3, 4 and 7 of the Dowry Prohibition Act, 1961. The amendments made the offences of giving, taking or demanding dowry punishable with a minimum imprisonment for three months which might extend to three years or a minimum fine of two thousand rupees which might extend to ten thousand

rupees or with both. It also provided that previous sanction of the State Government for taking cognizance of an offence would not be necessary in case the complaint was preferred by an organisation for social welfare with five years' standing as might be specified by the State Government. It also inserted a new Section providing for penalty—for depriving of the rights and privileges of marriage by the husband on the ground of non-payment of dowry before, during or after marriage—of *minimum* three months' imprisonment which might extend to one year or a fine or minimum of two thousand rupees which might extend to five thousand rupees or with both. The amendment further extended up to three years the time for making a complaint from the date of the offence.

(iii) *The Dowry Prohibition (Orissa Amendment) Act, 1976*

1.13 Two new Sections 6A and 6B were inserted by way of amendments to the Dowry Prohibition Act, 1961 by this enactment which, *inter alia*, provided punishment of imprisonment up to one year or fine up to ten thousand rupees or both for denial by the husband of conjugal rights to his wife on the ground of non-receipt or receipt of insufficient dowry and authorised the court to direct payment of amount of fine or a portion thereof, if so imposed, to the wife as compensation. It also authorised the court to pass an order, on conviction of such person for the said offence, for payment of a monthly allowance up to five hundred rupees for the maintenance of his wife and prohibited the husband from transferring his assets till the disposal of the claim for maintenance, if preferred within the specified time-limit.

(iv) *The Dowry Prohibition (Haryana Amendment) Act, 1976*

1.14 The enactment substituted Sections 2, 3, 4 and 7 of the Dowry Prohibition Act, 1961 by new Sections and also amended Section 6 thereof. The amending Act *inter alia*, defined "total marriage expenses" to or before the marriage on pre-marriage ceremoniee, gifts by parents and other close relations, illuminations and prescribed a maximum limit of five thousand rupees therefor. It also prescribed the upper limit of twenty-five members for the marriage party and eleven members for the band. It further provided that any contravention of the provisions of the Act would be punishable with imprisonment up to six months and fine up to five thousand rupees. Similar punishment had also been provided for denial of conjugal rights to the wife on the ground of non-receipt or receipt of insufficient dowry and the court has been authorised to direct payment of fine, if so imposed, or a portion thereof to the wife as compensation. The other important features of the amending Act are—

- (a) complaints might be filed by the parents or brother of the bride or by a *Gazetted Officer specially* authorised by the State Government for the purpose;
- (b) enquiry would be made through a police officer of the rank of Deputy Superintendent of Police or above; and

(c) no woman would be called to the police station for the purpose of an enquiry.

(v) *The Dowry Prohibition (Himachal Pradesh Amendment) Act, 1976*

1.15 The amending enactment substituted Sections 3, 4, 7 and 8 of the Dowry Prohibition Act, 1961 by new Sections which provided, *inter alia*, deterrent punishment both of imprisonment up to one year and a fine of five thousand rupees for giving, taking and demanding dowry. It also provided punishment of imprisonment up to six months or fine up to five thousand rupees for the display of presents made at the time of marriage, giving anything on the occasion of 'Milni' or any other ceremony performed in relation to betrothal or marriage and giving anything of the value of more than eleven rupees in the form of "Shagun" at the time of "Thaka", betrothal or "Tika". Almost similar punishment was provided for depriving any party of the rights and privileges of marriage on the ground of non-payment of dowry. The amending Act further made the offences under the Act as cognisable, bailable and non-compoundable and authorised the courts to take cognizance of the offence only on a police report under Section 173 of the Code of Criminal Procedure, 1973, or on a complaint by the aggrieved party with the previous sanction of the District Magistrate of the area. A police officer, not below the rank of Deputy Superintendent of Police, was authorised to make investigations of the case.

(vi) *The Dowry Prohibition (Punjab Amendment) Act, 1976*

1.16 The amending enactment amended Sections 3, 4, 9 and substituted Sections 7 and 8 of the Dowry Prohibition Act, 1961. The amending Act made the offence of giving, taking or demanding dowry punishable with imprisonment for one year and a fine up to five thousand rupees. It also prohibited displaying of presents made at the time of marriage; taking of more than twenty five persons excluding minors and members of the band; giving anything costing more than eleven rupees in the form of "Shagun" at the time of "Thaka", betrothal or marriage; giving anything at the time of "Milni" or any other ceremony in relation to betrothal or marriage; serving of more than two principal meals (*viz.* Lunch/Dinner) and provided punishment for imprisonment up to six months or fine up to five thousand rupees or both for any contravention thereof. It also provided punishment of imprisonment up to one year and fine up to five thousand rupees for denial of rights and privileges of marriage to the wife on the ground of non-payment of dowry or torture. The amendment also made the offences under the Act as cognizable on a complaint made within one year by the aggrieved party, bailable and non-compoundable and provided for investigation by a police officer not below the rank of Deputy Superintendent of Police. The amendment further provided that no prosecution in respect of any offence committed under the Act could be instituted without the previous sanction of the District Magistrate.

D. Distinguishing features between the Dowry Prohibition Act, 1961 and the Dowry Prohibition legislations passed by State Governments after 1961

1.17 The main distinguishing features between the Dowry Prohibition Act, 1961 and the amendments thereto made by various State Governments in their application to their respective States are briefly indicated as under—

(i) *Definition of Dowry*—According to the Central Act, nothing is to be treated as 'dowry' unless it is shown to have been given 'as consideration for the marriage' and no limit on the expenses on the marriage or any other ceremony has been prescribed.

Although the State Governments, who have amended the Central Act, of 1961, have not made any changes in the definition of dowry but—

- (a) The Government of Haryana have prescribed a limit on the total expenses to be incurred on pre-marriage ceremonies and on the marriage ceremony including all arrangements therefor;
- (b) the Governments of Punjab and Himachal Pradesh have prescribed a limit of eleven rupees to be given in the form of "Shagun" and prohibited anything being given at the time of "Milni";
- (c) the Governments of Haryana, Punjab and Himachal Pradesh have prohibited display of any presents made at the time of marriage; and
- (d) the Governments of Haryana and Punjab have also prescribed a limit on the number of members of a marriage party.

(ii) *Penalty for giving, taking and demanding dowry*

(1) According to the Central Act, the offences of giving, taking and demanding dowry are punishable with imprisonment up to six months or with fine up to five thousand rupees or with both.

The Government of Orissa have not made any change in this respect but—

- (a) the Governments of Bihar and Haryana have made the offences punishable with imprisonment up to six months and a fine up to five thousand rupees;
- (b) the Governments of Himachal Pradesh and Punjab have made such offences punishable with imprisonment up to one year and a fine up to five thousand rupees; and
- (c) the Government of West Bengal have prescribed a *minimum* imprisonment of three months which may extend to three years or a *minimum* fine of two thousand rupees which may extend to ten thousand rupees.

(2) In the parent Act, it is provided that cognizance of an offence for demanding dowry cannot be taken by court except with the previous sanction of the State Government or an officer authorised in that behalf.

The Government of West Bengal have, however, provided that no such previous sanction is necessary for taking cognizance of an offence on a complaint made by an organisation for social welfare as may be specified by the State Government.

(iii) Penalty for depriving any party of the rights and privileges of marriage

Although the parent Act has no such provision but the Governments of West Bengal, Himachal Pradesh and Punjab have provided penalty of imprisonment or/and fine for depriving the rights and privileges of marriage, refusal to maintain or torturing by one party to the other party on the ground of non-payment of dowry before, during or after the marriage.

(iv) Penalty for denial of conjugal rights by the husband

In the Dowry Prohibition Act, 1961, there is no such provision but the Governments of Orissa and Haryana have provided penalty of imprisonment or/and fine for denial of conjugal rights by the husband on the ground of non-receipt or receipt of insufficient dowry. The courts have also been authorised to direct payment of the amount of fine, so imposed, or a portion thereof to the wife as compensation. The courts have further been authorised to make an order, on conviction of the husband, for payment of a monthly allowance for the maintenance of wife.

(v) *Offences*—The Central Act of 1961 has made the offences under the Act as non-cognizable, bailable and non-compoundable. Whereas the Governments of Himachal Pradesh and Punjab have made the offences as cognizable, bailable and non-compoundable, the Government of Bihar have made them cognizable, non-bailable and non-compoundable.

E. Other steps taken by the Government to curb the evil of dowry system

1.18 The dowry system, despite the operation of the Dowry Prohibition Act, 1961, continued to grow throughout the country. As it was a social problem and the Central Legislation on the subject having proved ineffective, the Government took various other steps with a view to deal effectively with the problem and to curb the evils of the system.

1.19 In pursuance of the recommendations made by the 'Committee on the Status of Women in India' in their Report in December, 1974, the Government of India have amended the Central Government Civil Service (Conduct) Rules prohibiting the Government servants in giving or taking or abetting the giving or taking of dowry or demanding directly or indirectly any such dowry. Similar amendments have also been made by a number of State Governments in the Conduct Rules relating to their employees.

1.20 In the first place, the State Governments were allowed to amend the Dowry Prohibition Act, 1961 so as to make it more suitable to deal effectively with the evils of the system prevalent in their respective States. Accordingly, the State Governments of Bihar, West Bengal, Orissa, Haryana, Himachal Pradesh and Punjab have, under Article 246(2) read with Article 254(2) of the Constitution of India, amended the Central Act of 1961, as already explained in paragraphs 1.11 to 1.16. Some of the State Governments have, by way of these amendments, prescribed limit on marriage expenses and other ceremonies, prohibited display of presents and have provided stringent penalties for contravention of the provisions of the Act. Some of them have also provided severe punishments for depriving the wife of the rights and privileges of marriage and also denial of conjugal rights by the husband on the ground of non-payment or insufficient dowry.

1.21 The Government of India have also issued instructions to all the State Governments and Union Territory Administrations to make thorough and compulsory investigations by police officers not below the rank of Deputy Superintendent of Police, and to carry out post-mortem in all cases of married women dying in unnatural circumstances during the first five years of their marriage. The State Governments have further been directed that disposal of bodies without post-mortem, should not be permitted except with a 'no objection certificate' issued by the Police authorities.

In the Union Territory of Delhi, a decision has been taken that all cases of homicide resulting from alleged demands for dowry would be investigated by the homicide squad of the Crime Branch of Delhi Police. It has also been laid down that officers found negligent in any manner in handling such cases would be dealt with severely.

1.22 Anti-dowry publicity is being carried out by the Central Information media through Radio and Television programmes and the Directorate of Audio-visual publicity is involved in the programme of carrying sustained campaign against the evils of dowry. The State Governments and Union Territory Administrations, the Central Social Welfare Board and the State Social Welfare Advisory Boards have also been requested to launch anti-dowry campaign so as to bring about attitudinal changes in the minds of public against this evil.

1.23 In the Union Territory of Delhi, the Directorate of Social Welfare has set up an anti-dowry cell for launching anti-dowry campaign. This cell also takes action on the representations received from victims of dowry disputes. The Crime Branch of Delhi Police has also set up a special cell to receive and investigate into complaints of deaths/suicides of women arising out of disputes about dowry.

F. Recent Developments and reference of the 1961-Act to the Joint Committee for Examination and Report

1.24 Despite the Central Act of 1961 and the State enactments in force and the various steps taken by the respective Central and

State Governments from time to time to curb the evils of dowry system, the dowry system continued to grow unabated and it took alarming proportion in recent years resulting in many dowry deaths and murders of, and suicides by, a number of young married girls. These tragic incidents were adversely reported in the press. Many women's and voluntary social organisations were also greatly agitated over these events. These issues were also raised in Parliament in one form or the other. A Private Member's Bill was introduced by Shrimati Pramila Dandavate, M.P. on 13-6-1980 to deal effectively with the evils of dowry and was considered in Lok Sabha on 5 and 19 December, 1980. On 19 December, 1980, the Minister of Law, Justice and Company Affairs moved a motion in Lok Sabha to the effect that the question of the working of the Dowry Prohibition Act, 1961 and the amendments which might be made in the law for dealing effectively with the evil of dowry system be referred to a Joint Committee of both the Houses for examination and Report. After the adoption of the said motion in Lok Sabha, Shrimati Pramila Dandavate withdrew her Bill on the subject by leave of the House on the same day.

G. Reasons for Failure of the Dowry Prohibition Act, 1961

1.25 The Committee note with great concern that despite the existence of the Central enactment as also the amending enactments passed by the various State Governments and the steps taken both by the Central and the State Governments, neither of them has been able to curb the social evil of dowry. The Central enactment brought into force with the ostensible purpose of curbing the evil, if not eradicating it, has singularly failed to achieve its objective. In spite of the rapid growth of the practice of dowry, there are practically no cases reported under the Act. The evil sought to be done away with by the Act has, on the other hand, increased by leaps and bounds and has now assumed grotesque and alarming proportions.

1.26 The Committee feel that so far as the working of the Dowry Prohibition Act, 1961 is concerned, there appear to be mainly two reasons which can be attributed for its failure in achieving the desired objective. First, the Act contains an Explanation under Section 2 which takes away the teeth of the law and nullifies the objective for which it was enacted as in terms of the said Explanation, the presents in the form of cash, ornaments, clothes and other articles are not to be deemed as dowry unless they are made "*as consideration for the marriage*" of the said parties. It is well nigh impossible to prove that the presents so made were '*as consideration for the marriage*' for the obvious reason that the giver, i.e., the parents or the guardian of the bride, would not, in the interest of the girl, say so. Secondly, the Act virtually lacks enforcement. The court, which is competent to try offences under the Act by virtue of Section 7(a), cannot take cognizance of any offence except on a complaint made within one year from the date of the offence. It is true that any person who is aware of the commission of the offence, and not necessarily the aggrieved party, can make a complaint under this provision, but rarely do the invitees at the wedding, who alone

would have the knowledge of the commission of the offence, come forward to lodge a complaint. It is equally futile to expect even the aggrieved party to set the law in motion since the bride's parents, who are usually the victims, would be reluctant and unwilling to make a complaint because of the fear that their daughter could be victimised for that. The Act did not, therefore, have the desired effect of even curbing the evil not to speak of its eradication.

1.27 It is also disconcerting to note that spread of education in the country has hardly had any liberalising influence on the minds of the people in respect of dowry. On the contrary, education has increased the demand for dowry both in rural as well as in urban areas. The Committee are in full agreement with the observations made by the 'Committee on the Status of Women in India' in their Report to the effect that 'the educated youth is grossly insensitive to the evil of dowry and un-ashamedly contributes to its perpetuation.'

1.28 The Committee are aware that the existence of the dowry system is a social problem and the remedy therefor can be found by creating social awareness in the Society and that the evil cannot be eradicated unless social consciousness revolts against it every time and on every occasion. However, the Committee are reminded of the following observations made by late Pt. Jawahar Lal Nehru, the then Prime Minister, during the course of a debate on the Dowry Prohibition Bill at the Joint Sitting of both Houses of Parliament on 6 May, 1961:—

"Legislation cannot be itself normally solve deep-rooted social problems. One has to approach them in other way too, but legislation is necessary and essential, so that it may give that push and have that educative factor as well as the legal sanctions behind it which help public opinion to be given a certain shape".

The Committee are also in agreement with the opinion expressed by the 'Committee on the Status of Women in India' in their Report to the effect that a stringent enforcement of the policy and purpose of the Act may serve to educate public opinion better.

1.29 The Committee have no doubt that if all the possible loopholes in the Act are plugged, its provisions are strictly implemented without fear or favour and deterrent punishment is provided for and imposed on law-breakers, there is no reason why this social legislation should not bring about the desired results. The Committee, at the same time, also feel that the necessity for social legislation should be widely publicised and public opinion properly educated with a view to ensure a reasonable and willing acceptance thereof by the society.

CHAPTER II

DOWRY SYSTEM IN VARIOUS PARTS OF THE COUNTRY

(a) Present position of the dowry system

2.1 Though dowry is an all-India phenomenon, there were some communities and groups in the country which were relatively free from the menace of this custom till a few decades back. Most muslim communities, the non-catholic Christians outside Kerala and the Parsees did not have dowry as an essential part of the marriage ritual. The Nagar Brahmins of Gujarat, the Khatri of Uttar Pradesh and the Mathur Kayasthas did not have dowry as a custom. Many castes in Maharashtra also had no custom of dowry. But today even these communities have taken to dowry and look upon it as a prestige symbol.

2.2 The practice of dowry is rampant in Haryana, Punjab, Bihar, Rajasthan and Uttar Pradesh. *Dowry is practically practised among almost all the castes of the Hindus in all the States.* So do the Aggarwals and other Vaishya groups in the Hindi-speaking areas, the Rajputs and the Kayasthas and the landlords of Bihar and Uttar Pradesh. In the South the Reddis, the Kammas, the Velmas, the traders and well-to-do Brahmins, the Vellallas, the Mudaliars, the Chettiars, Vaishyas some Lingayat groups and the Christians (in Kerala) are known for their passion for big dowry.

2.3 In almost all States, all the highly placed people among Hindus practise dowry. It is equally prevalent at present, among the Muslims and Christians. Among the Muslims, in many parts of the country, there is a custom of giving cash to the bridegroom (popularly called as *Salami*) after the 'Nikah' ceremony and of giving clothes and jewellery to the bride by her parents who also bear the other expenses of the marriage. The Christians of Mangalore follow their pre-conversion custom of '*Kanyadan*'. It is reported that in a State like Kerala with its high literacy rate and progressive outlook the prevailing high rates of dowry make marriages almost impossible for many Christian girls belonging to large families and induce them to join the nunneries or search desperately for jobs in other States. There is, in fact, no difference these days in the pattern and motives of conspicuous consumption and dowry, either religion-wise, region-wise or otherwise.

2.4 In many cases, black money and unaccounted earnings are playing a great role in encouraging this evil practice. It is now taking the form of a huge bribe to buy the daughters' future by arranging marriage alliances with highly placed bridegrooms belonging to families of high social and economic status. In the process, they raise the expectations of others in the marriage market, and the only sufferers are men of honest and moderate means who encounter unsurmountable difficulty in finding suitable matches even for their talented and beautiful daughters. Therefore,

a distinct trend is noticeable among girls of middle class families in urban areas to take up clerical jobs or go for nursing profession or work as sales girls in order to earn and accumulate their dowry.

2.5. A situation has emerged in the Society wherein social status and prestige have come to be measured in accordance with the expenses incurred by the parents on the marriage of their daughter or son. Higher the dowry and other expenses incurred on the marriage of the girl, higher the prestige and status the family enjoys in the society. Dowry payments are taken as symbols of high social rank of the family and are not deemed as illegal or unethical nor seen with disapproval by the people in the society. People rather narrate the details of high dowry marriages with pride which induce other people to nurse a keen desire to get dowry in the marriages of their sons. Even the people, who have experienced the pinch of this evil system in the marriages of their daughters, remain keen to get dowry in the marriages of their sons. This is the most pernicious and tragic part of the dowry system.

2.6 At a time when more advanced societies are laying stress on human relationship as a foundation for marriage, the Indian Society is sinking deeper and deeper into institutionalised system of exploitation which is leading to an entirely commercial relationship between the kinsfolk of the young couple.

2.7 It is reported that there are well-defined grades of dowry for men in different trades and professions. For example, an I.A.S. or I.F.S. boy belonging to well-to-do communities, can easily expect in cash and kind a few lakhs of rupees. Business executives rank next. Engineers and Doctors are some what lower on the scale. This class of persons seems to expect that marriage would bring for the bridegroom not only a bride but also a car, refrigerator and radio-gram, besides other expensive things, to set up a modern and luxurious house-hold. These groups serve as pace-setters and naturally influence those below them in the social hierarchy to practise this evil system.

Thus, even a peon or a clerk does not lag behind or hesitate in demanding such things as a bicycle, a transistor and a wrist watch. A scooter and a television set are common demands at the level of middle class families. In big cities, a demand for residential accommodation which has a high premium value often forms part of dowry.

2.8 In the rural areas, the situation is reported to be more distressing. The farmers are forced to sell their land, bullocks etc. which are the only means of livelihood, to evolve dowry funds for the marriages of their daughters. It is also reported that prevalence of dowry system is one of the reasons for rising rural indebtedness. The farmers borrow, year after year, from the money-lenders and Government Institutions by mortgaging their land or otherwise, at a very high rate of interest. It is estimated that a major portion of the borrowings by the farmers is spent on marriages and other social ceremonies and very little amount is spent on improvement and inputs of agriculture. As their agricultural output is not

enough to pay off their debts, the debts go on increasing year after year with the result that the money-lenders ultimately take away the land of the borrowers. On account of these factors, the farmers are eventually rendered landless and their number is increasing.

(b) Dowry-deaths viz. murders, suicides and burnings on account of dowry system

2.9 In *Manusmriti*, the ancient scripture on Ethics by *Manu*, the ideal with regard to the status of women, placed before the Indian society, had been expressed in the following words:—

“यत्र नार्यस्तु पूज्यन्ते, रमन्ते तत्र देवताः”

[Where women are worshipped, that place is the abode of Gods]

It is also truly said that one of the important indices of the level of civilization in any society is the extent of deference shown by it to women, the respect they evoke and the status they occupy. In ancient times, when the women in the Indian society were given the highest place of reverence, India, i.e., *Bharatavarsha*, was considered to be the most civilized nation in the world.

2.10 However, it is most alarming and distressing to note that in the Indian society, where almost half of the population, i.e., women, who were once worshipped and highly respected, today find themselves tortured, harassed, abandoned, divorced, murdered and are forced to commit suicide on account of the evils of dowry system.

2.11 Despite the Dowry Prohibition Act, 1961, and the amendments to that Act, passed by various State Governments, being in force and several other measures taken both by the Central and State Governments with a view to deal effectively with the problem, statistics reveal numerous cases of married women being harassed, tortured, murdered, burnt and even forced to commit suicide on account of the evils of the dowry system.

2.12 The Report of the Suicide Enquiry Committee in Gujarat (May, 1960—April, 1964) noted that ninety per cent of suicides committed in Saurashtra were by women. It also reported that 867 women committed suicide owing to domestic unhappiness as against only 302 men for the same reason. The Committee further noted that one of the factors responsible for family tension leading to suicide especially of poor girls, was dowry and related customs. The girls had to suffer humiliation and taunts for not bringing handsome dowry in their marriage.

2.13 Despite all the measures taken by the Central and State Governments, statistics reveal numerous cases of dowry harassment and deaths. A survey conducted on the basis of incidents reported in the Press has shown that cases of wife burning tragedies increased from 670 in 1975 to 1676 in 1979—these figures do not include cases of suicide by newly married women. Out of the total number of cases of wife burning tragedies reported in 1979, 744 were from Uttar Pradesh, 364 from Maharashtra and 249 from Andhra Pradesh. There were 148 cases in Delhi, 98 in Rajasthan, 48 in West

Bengal, 23 in Punjab and 2 cases each were reported from Tamil Nadu and Karnataka. In most of these cases, the parties involved were unwilling to invoke the provisions of the Dowry Prohibition Act, 1961.

2.14 During the year 1978, 35 incidents of dowry deaths were reported throughout the country. Out of these, only in 8 cases, the guilty persons could be convicted. In 1979, the incidents of dowry deaths in the country increased to 54, out of which there were only two convictions.

2.15 The cases of dowry deaths are increasing in Delhi as is evident from the following figures reported to the Delhi Police during the years 1980, 1981 and 1982 (so far):

<i>Period</i>	<i>Number of dowry death cases reported to the Police</i>
1 January to 30 June, 1980	9
1 January to 30 June, 1981	11
1 January to 30 June, 1982	19

2.16 The severity of the problem in different part of the country is also on the increase as is evident from the following figures of the reported incidents of dowry deaths of women during 1979, 1980 and 1981.

<i>Name of the State</i>	<i>1979</i>	<i>1980</i>	<i>1981</i>
Gujarat	--	1	2
Orissa	1	2	5
Uttar Pradesh	10	16	30

2.17 The Committee feel that, although the statistics given in the foregoing paragraphs are quite indicative of the enormity of the problem, there may be many more such cases which may not have appeared in the Press or reported to the Police. Since the problem of dowry system is now widespread throughout the country, there may also be thousands of unnoticed and unreported cases where married women are harassed, humiliated and tortured because of the inability of their parents to meet the dowry demands of their in-laws or their husbands.

(c) Impressions gathered by the Joint Committee

2.18 The Committee, during their study and examination of the working of the Dowry Prohibition Act, 1961 in relation to the dowry system prevalent throughout the country, had received various memoranda containing comments|suggestions and representations|complaints on the subject. The Committee had also visited several places in the country and heard the views of both officials and non-officials comprising representatives of various Women's and Voluntary Social Organisations, Bar Councils, Bar Associations and individuals representing almost all sections of the society,

2.19 All over India, the Committee have found that the system of dowry is on the increase and has penetrated into all strata of different communities and regions which did not practise it earlier. Its extent, i.e. quantum, depends on the socio-economic status of the parties involved and differs from region to region. What is deplorable in the case of dowry is its compulsive character and the resulting material transactions in actual consideration of the marriage.

2.20 The Committee have noted that in the continued relationship between the two families of the bride and the bridegroom, gift-giving characterises specific occasions of visits, festivals and ceremonies like those associated with marriage, child-birth, initiation etc. particularly in the first few years of marriage. It is a matter of general observation and experience that in such gift-giving, the bride's family is under compulsion and heavy pressure. These subsequent expenses are often regarded as making up for the deficiencies in the initial giving of dowry and cause severe hardship to the girl's parents. In the first few years of marriage, in most of the cases, the girl's treatment in her husband's house is linked to these gifts. In actual practice one comes across so many cases of cruelty even long after the marriage arising chiefly out of almost insatiable demands made on the parents of the girl. Thus, "dowry" is not one isolated payment initially at the time of marriage but a series of gifts given over a period of time before and after the marriage. However, among the different ways of payment that constitute dowry, that which is given and taken at the time of marriage, is the most important and conspicuous in view of the fact that the system continues openly unabated even when the Act of 1961 specifically prohibits the taking of dowry.

2.21 The Committee have also noted that in many parts of India, the birth of a female child is considered as a matter of sorrow. A female child casts a shadow of tragedy over the whole family because of the dowry that will have to be given later and continues to haunt it till the wedding of the girl takes place and, quite often, till long after the wedding and sometimes till death brings peace to the tormented girl. The so-called equality of status and opportunity between the sexes guaranteed by the Constitution of India is, therefore, completely nullified by the social evil of the dowry system.

2.22 The religious and social philosophies in this country also emphasize the importance of human values. Greed for money is considered in our scriptures as one of the most serious offences against man and society. Yet it is the greed for money which is responsible for the emergence and continuance of the dowry system. This glaring contradiction between precept and practice underlines our social hypocrisy which exists on a gigantic scale.

2.23 The Committee note with great concern that the spirit of dowry, as prevalent in the country, and the transactions involved in it, particularly at the upper middle class and the upper class levels, go against the goal of a socialistic pattern of society because their ostentatious behaviour tend to influence other socio-economic groups adversely. It is an undeniable fact that, excepting a few rich, all have to spend beyond their means where dowry is involved.

2.24 The Committee, during the course of their study of the problem, were informed that almost all sections of the society in the country felt bitterly about the ever-increasing burden of dowry. The limited means of the parents and the abnormal demands for dowry impose a great strain on the minds both of the parents as well as of the girls which at times leads to undesirable consequences.

2.25 Although dowry, on theoretical plane, is condemned by all in this country, in actual life most of them are parties to the vice. Thus, it has undeniably become one of the great social evils in the country. It has, in some cases, resulted in the murder of newly married girls, in some cases they have been burnt on this score and in other cases this evil and its resultant cruelty has driven them to suicide. In many cases it has resulted in the harassment, torture and maltreatment of brides by the in-laws after marriage including their despatch back to their parents' homes for extracting more dowry and in a number of cases it has ruined the marital relationship and led to divorce. In some cases it has made it difficult for girls to find suitable matches and thus has compelled them to remain spinsters.

2.26 The Committee feel that the evils of the dowry system leading to murders, suicides, burnings—popularly known as 'dowry deaths'—harassment and torture of the newly married young girls throughout the country are creating a fear psychosis in India like the *mafia* in European countries. The Committee are of the view that the evils of the dowry system are, therefore, required to be attacked from all sides—socially, economically and legally—and appropriate measures for their removal need to be evolved.

2.27 The Committee feel very strongly that the best precursor of such social reforms is a change in social thinking, behaviour and creation of strong public opinion. Laws can prove effective only if they are backed by major sections of the society. Wide gulf or gap between social climate and the laws of the land results in frictions which are not good for the health of the community. Laws, no doubt can be used as instruments for engineering social welfare and it is indeed the function of laws to satisfy the felt necessities of the time.

There is, however, a limit up to which laws can be ahead of community's thinking and social climate. If laws move too much ahead they would have to cry halt or retrace their steps. If however, laws remain static in an advancing society, they would, in that event lose their efficacy and utility because of their failure to keep pace with the march of time. Although interaction between law and social progress is inevitable, it is also essential to keep in view the need for harmony between social thinking and legal process.

The Committee are also of the view that for any law to yield results and prove effective, two conditions need to be satisfied. There must be a favourable social climate in support of that law. Otherwise that law would remain no more than an embellishment of the statute book. The second requirement is the administrative will to enforce the said law. If the administrative willingness to implement that law is lacking, the law would prove to be no better than a dead letter.

CHAPTER III

RECOMMENDATIONS

3.1 The Committee, after examining the working of the provisions of the Dowry Prohibition Act, 1961, feel that the provisions contained therein are insufficient to deal effectively with the problem of dowry system prevailing in the country and to eradicate its evil in its entirety. The Committee realize that to suggest comprehensive changes would not strictly fall within the scope of the Act. But, considering the importance and urgency of the subject matter and keeping in view the long-range welfare of the women-folk in general and the future brides in particular, the Committee have decided to make their recommendations in two parts—first, by way of specific amendments to the Dowry Prohibition Act, 1961; and the second in the form of general recommendations for consideration of the Government.

PART I

Amendments suggested to the Dowry Prohibition Act, 1961

3.2 The observations of the Committee with regard to the principal changes proposed in the Dowry Prohibition Act, 1961 are detailed in the succeeding paragraphs.

3.3 Section 2.—According to the definition of the term “dowry” given in this Section, any property or valuable security given or agreed to be given by one party whether parents or any other person to the other party at or before or after the marriage as consideration for the marriage is to be treated as dowry but it does not include dower or *mahr* in the case of persons to whom the Muslim Personal Law applies. By way of explanation it has been further clarified that the presents in the form of cash, ornaments, clothes and other articles are not to be deemed as dowry unless they are shown to have been given as consideration for the marriage.

3.4 The Committee feel that it is well-nigh impossible to prove that any property or valuable security given or the presents so made were as ‘consideration for the marriage’ for the obvious and simple reason that the giver, i.e. the parents, who are usually the victims, would not, in the interests of girl, say so and would be reluctant and unwilling to set the law in motion because of the fear that their daughter could be victimised for that. This, the Committee feel, is one of the reasons why the Dowry Prohibition Act, 1961, although in operation for such a long time, failed to achieve its objectives. The Committee are aware that the omission of the aforesaid words would make the definition very wide and drastic. **The Committee have reluctantly arrived at the conclusion that those words should be omitted as without omitting them the provisions of the Act cannot be made to serve the purposes which they are intended to.**

3.5 The Committee examined the implications of the problem from different angles, viz. presents made to the bride; presents made to the bridegroom and his family members and other marriage expenses. The Committee are of the view that it is neither desirable to put a complete ban on the presents to be made to the bride nor does it seem reasonable to prescribe a standard ceiling thereon for different sections of the society for the reasons that it would neither be possible to implement it nor it would be acceptable to the society. Keeping in view the interests of the girl uppermost in mind and to ensure that the parents of the bride are also not put to any undue hardships, the Committee are of the opinion that apart from the right of inheritance or succession or any other property right to which the bride might be entitled to under any other law applicable to her or any other property rights under any agreement or right of the bride to "dower" or "mahr" under the personal law applicable to her, presents made voluntarily i.e. without compulsion or coercion either directly or indirectly to her by her parents, relatives, friends, etc. at or before or after the marriage in the form of cash, ornaments, clothes or other articles not exceeding in value twenty per cent of the income, during the year preceding the date of marriage, of the parents of the bride or other persons bearing the marriage expenses on the bride's side, or fifteen thousand rupees whichever is less, should not be deemed as dowry for the purposes of Section 3. The Committee also feel that presents made voluntarily to the bride by the bridegroom or parents or relatives of the bridegroom should not be treated as dowry for the purposes of Section 3 (taking dowry).

The Committee are of the view that this limit is expected to be within the capacity of the parents and acceptable to the society.

3.6 The Committee are also of the opinion that in order to make it sure that the presents, in the form of cash, ornaments, clothes or other articles made to the bride at or before or after the marriage, are exclusively for the bride's benefit, they should be listed and registered in her name. Further, in the event of the bride's death under suspicious circumstances and without issues, such presents should be reverted to her parents, failing which to their heirs. If she dies leaving any issues behind, the presents should go to those issues. In the event of divorce, they should be reverted to her. The Committee are further of the opinion that in order to make the position of the bride more secure and to see that her presents are not misappropriated by her husband or her in-laws on one pretext or the other, such presents should neither be allowed to be transferred nor disposed of for a minimum period of five years from the date of marriage without the prior permission of the Family Court (by whatever name called) on an application made by her.

3.7 The Committee feel that the main problem in the dowry system prevailing in the country relates to the demands from bridegroom's side for presents in different forms and the expenditure on the performance of marriage ceremonies ostentatiously which result in great hardships being caused to the parents of the bride. In order to ensure that there is no element of compulsion from the side of

the bridegroom for dowry and to curb the evil practice of ostentation in the marriage ceremonies, the Committee very strongly feel that in the circumstances prevailing in the country, a stage has come, where there is no remedy except to prescribe a ceiling on the presents to be made to the bridegroom or his family members and the total marriage expenses likely to be incurred on different occasions.

3.8 The Committee are of the opinion that in view of the prevailing economic conditions in the country and to ensure that no hardship is caused to the parents of the bride or other persons bearing the expenses of the marriage on the bride's side, presents made voluntarily i.e. without compulsion or coercion either directly or indirectly to the bridegroom or his relations at or before or after the marriage not exceeding in value three per cent of the income, during the year preceding the date of marriage, of the parents of the bride or other persons bearing the expenses of the marriage on the bride's side or two thousand rupees, whichever is less, should not be treated as dowry for the purposes of Section 3 (taking dowry).

3.9 The Committee are also of the opinion that incurring of marriage expenses on betrothal or any other ceremony connected with marriage, decorations, illuminations, music, serving of food and other incidental matters exceeding seven per cent of the income, during the year preceding the date of marriage, of the parents of the bride or other persons bearing the marriage expenses on the bride's side or three thousand rupees, whichever is less, should be made punishable with imprisonment which may extend to three months and fine which may extend to five thousand rupees or twice the amount which has been incurred in excess of the limit, whichever is more.

3.10 Section 3.—Section 3 provides that giving or taking of dowry shall be punishable with imprisonment up to six months or with fine up to five thousand rupees or with both.

3.11 The Committee feel that the giver of the dowry, i.e. the parents should not be equated with those who take dowry. The giver of dowry is more a victim than a criminal. The parents do not give dowry out of their free will but are compelled to do so. Further, when both the giver and the taker are punishable, no giver can be expected to come forward to make a complaint.

3.12 The Committee are, therefore, of the opinion that only those who take or abet the taking of dowry should be punished and in order to curb the evils of the system, a deterrent punishment of imprisonment for a minimum period of six months extendable up to two years and a fine extendable up to ten thousand rupees or an amount equivalent to the amount taken as dowry, whichever is more, need to be provided. The Committee are also of the opinion that the court trying the offence might be allowed to exercise the discretion of imposing a sentence of imprisonment of less than six months for adequate and special reasons in deserving cases. By way of abundant caution, the Committee desire that it may be made clear that the giver of the dowry shall not be subjected to any punishment as an abettor.

3.13 *Section 4.*—Section 4 provides that if any person demands directly or indirectly from the parents of a bride or bridegroom any dowry, he shall be punishable with imprisonment up to six months or with fine up to five thousand rupees or with both. It also provides that no court shall take cognizance of any such offence except with the previous sanction of the State Government or such other officer as may be authorised for the purpose.

3.14 The Committee feel that the punishment for demanding dowry is quite inadequate and hence ineffective. The Committee note with great concern that the demands for dowry in the country are on the increase and, as is evident from day-to-day newspaper reports, tend to create a fear psychosis in the minds of the young girls of marriageable age and their parents.

3.15 The Committee are, therefore, of the opinion that deterrent punishment for demanding dowry, on the same lines as has been proposed in the case of taking dowry, needs to be provided i.e., imprisonment for a minimum period of six months extendable up to two years and fine extendable up to ten thousand rupees. The Court also should be allowed to exercise the discretion of imposing a sentence of imprisonment of less than six months for adequate and special reasons in deserving cases. This, the Committee feel, would help in achieving the objectives to a great extent.

3.16 So far as provision relating to previous sanction of the State Government for taking cognizance of the offence is concerned, the Committee are of the view that this would cause delay and act as an obstacle in the prosecution of offenders and is, therefore, not necessary.

3.17 *New Sections 4A and 4B.*—During the course of their deliberations, the Joint Committee were time and again informed that apart from the specific forms of persecution, viz., taking and demanding dowry, there are yet other forms of persecution, namely denial of conjugal rights by the husband and mental and physical torture of the bride by the husband or his parents and relations on the ground of non-receipt of dowry or insufficient dowry. This mental and physical torture of the girl after marriage makes her life miserable and leads to undesirable consequences.

3.18 Under the provisions contained in the Dowry Prohibition (Orissa Amendment) Act, 1976, denial of conjugal rights by the husband on the ground of non-receipt of dowry or insufficient dowry has been made punishable. According to these provisions, a person who denies conjugal rights to the wife on the ground that dowry has not been given or the dowry given is insufficient shall be imprisoned for a term which may extend to one year or fine which may extend to ten thousand rupees or with both. The court has been given the power to drop the proceedings on an undertaking given by the husband at any stage of the proceedings that he will not realise the dowry and would allow conjugal rights to the wife. In cases of the breach of the undertaking, the proceedings become automatically revived. The court has also been given the power to direct a portion of the fine for an offence under the Act to be paid

over to the wife as compensation. The court has also been further empowered to make provision for payment of monthly allowance for the maintenance of wife by the husband on his conviction.

3.19 The Committee are of the view that the denial of conjugal rights to the wife and infliction of mental or physical cruelty on her on the ground that dowry has not been given or that the dowry given is insufficient should be made punishable with imprisonment extendable up to one year or fine extendable up to ten thousand rupees.

3.20 Section 6.—In accordance with the provisions contained in this Section, where any dowry is received by any person other than the bride and if that person fails to return it to the bride within one year—(i) after the date of marriage if it is received before marriage; (ii) after the date of receipt if it is received at the time of or after the marriage; and (iii) after attaining the age of eighteen years if it is received by a minor bride—that person is punishable with imprisonment up to six months or with fine up to five thousand rupees or with both. The Section also provides that in case the woman entitled to receive the said property dies before receiving it, the heirs of the woman are entitled to claim it from the person holding it for the time being.

3.21 Although taking and demanding dowry have been prohibited and made punishable under Sections 3 and 4 as also in the amendments now being proposed to these Sections, the Committee apprehend that in view of the nature and prevalence of the dowry system in the country, there is no likelihood of the provisions being complied with by all in letter and spirit. **The Committee feel that even though the provisions contained in the amendments being proposed to the Act are expected to take care of the violations, in those cases where dowry has been given and is held by any person other than the woman entitled to it that person should return it to her under all conditions mentioned in para 3.20 above, within three months of its receipt by him.**

3.22 The Committee also feel that in order to ensure that the dowry, which is essentially for the benefit of the girl, is not misappropriated by the person who is holding it for the time being, there should be a provision for deterrent punishment for any default in that behalf. **The Committee are, therefore, of the opinion that if the person holding the property does not return it within the stipulated time-limit, he should be punishable with imprisonment for a minimum period of six months extendable up to two years or with fine up to ten thousand rupees or with both.**

3.23 The Committee feel that the present provisions relating to devolvement of the said property to the heirs of the woman in cases where she dies before receiving it, should be made more explicit and such list of heirs should not include the husband of the woman. **The Committee are of the opinion that the property in such cases should go back to the parents failing which to their heirs if she dies without any issue and to the issues in case she dies leaving behind the issues. The Committee are further of the opinion that in cases**

where the woman dies under suspicious circumstances and the husband or in-laws are alleged to have murdered the woman or instigated such murder for dowry, the property inherited by the issues should be looked after by the guardian appointed by the court till they attain the age of majority.

3.24 *Section 7.*—According to the provisions contained in this Section, no court inferior to that of a Presidency Magistrate or a Magistrate of the First Class is to try any offence and the cognizance of offences under the Act is to be taken by these courts only on a complaint made within one year from the date of offence.

3.25 The Committee feel that dowry offences, being of a delicate nature, should not be tried by ordinary courts. The Committee are of the view that, as in some foreign countries like U.S.A., Japan and Australia, Family Courts should be established to deal with family matters including the offences arising out of the violation of the Dowry Prohibition Act. These Family Courts, the Committee were informed, were functioning well in foreign countries and had an advantage over the ordinary courts as they had the assistance of specialists like sociologists, psychologists and social workers in considering any particular family problem. The Committee feel that family problems, being of a sensitive and delicate nature, require careful handling and a different kind of treatment. In such cases, the Committee feel, the procedure has to be much simpler, the atmosphere has also to be less formal and a certain amount of privacy is also necessary.

3.26 After the commencement of the Code of Criminal Procedure, 1973, the "Presidency Magistrates" and the "Magistrates of the First Class" are known as the "Metropolitan Magistrates" and the "Judicial Magistrates of the First Class" respectively. The Committee desire that the nomenclature may be changed accordingly.

3.27 The Committee are, therefore, of the opinion that offences under the Act should be tried only by the Family Courts. Till such time the Family Courts are established, the offences under the Act should be tried by any court not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the First Class.

3.28 The Committee note that the offences under the Act being non-cognizable, the provisions envisage a complaint being preferred by the parents of the girl who had given the dowry. This, the Committee feel, is quite unrealistic to think that the parents of the girl would prefer a complaint against the interests of their daughter after the marriage. The Committee are, therefore, of the opinion that apart from the parents and the relations of the girl, the police and registered social organisations should also be authorised to lodge a complaint. The Committee are further of the opinion that there need not be any time-limit for lodging a complaint as in many cases, the offences come to light after a long period of marriage when the continued harassment and torture of the woman compel her to expose her husband and her in-laws.

3.29 *Section 8.*—According to the provisions contained in this Section, any offence under the Act is to be non-cognizable, bailable and non-compoundable.

3.30 The Committee feel that although they are in favour of the offences under the Act being made cognizable, there is an apprehension, that it may lead to some harassment particularly at the time of solemnization of marriage, as the police have powers to make arrests without warrant in such cases. The Committee are, therefore, of the opinion that in order to ensure that no harassment is caused to the parties involved, the offences under the Act should be made cognizable subject to the condition that no arrest shall be made by the police officer without a warrant or an order of a Magistrate.

3.31 The Committee are further of the opinion that where the parties involved agree to compromise on the complaint before the court, there should be no objection if it is done with the permission of the court. The offences under the Act should, therefore, be made compoundable, subject to the terms and conditions as the court may impose. In case of infringement of the terms and conditions, so imposed, the court may reopen the case on an application made therefor.

3.32 *New Section 8A.*—During the course of their deliberations, the Committee were informed that one of the reasons for failure of the Dowry Prohibition Act, 1961 in achieving its objectives is the absence of any enforcement machinery for the proper enforcement of its provisions or for providing necessary help to the dowry victims to prosecute their cases. The Committee are of the view that if some machinery, which can intervene, whenever necessary, is made available, it may help in averting a number of dowry tragedies and also in rendering necessary help to the dowry victims.

3.33 The Committee are, therefore, of the opinion that it should be made obligatory on the part of the State Governments to appoint Dowry Prohibition Officers for different local areas in their respective States. The Committee are of the view that it should be the duty of the Dowry Prohibition Officer to take appropriate action under the Act and the rules made thereunder for preventing contraventions of the Act, to collect evidence for the effective prosecution of persons contravening such provisions, to advise and render all possible help to persons subjected to demand for dowry and to discharge such other functions as might be assigned by the State Government. The State Government should also associate with each Dowry Prohibition Officer a non-official advisory body consisting of at least five social workers including women social workers well-known in the area within the jurisdiction of the officer for the purpose of advising and assisting him in the efficient performance of his functions. The State Government should also invest Dowry Prohibition Officer with such powers of a Police Officer as it might deem necessary for the purposes of the Act.

3.34 *New Section 8B.*—The Committee are of the opinion that in order to assess and evaluate the working of the Act, both the Central and State Governments should prepare annual reports on the administration of the Act and lay it before each House of Parliament and the Legislative Assembly or each House of the State Legislature as the case may be, respectively.

3.35 *Section 9.*—The Committee desire that this Section which empowers the Central Government to make rules should be brought into conformity with the latest recommendations made by the Committee on Subordinate Legislation on the subject.

3.36 *New Section 9A.*—The Committee feel that provisions, similar to those of the Central Government relating to rule making power, should be made for the State Governments for carrying out the purposes of the Act since the State Governments administer the Act.

3.37 The Committee recommend very strongly that the Central Government, in view of the importance and urgency of this grave and burning problem of dowry, should introduce an amendment Bill incorporating the suggestions made above in the 1961 Act, or introduce a new Bill (repealing the 1961 Act) incorporating the aforesaid suggestions therein at an early date.

PART II

General Recommendations

3.38 The Joint Committee, with a view to acquaint themselves with various aspects of the problem of the dowry system prevailing in the country and to ascertain the views of the cross-section of the society for its eradication, received a large number of memoranda containing comments/suggestions and replies to the Questionnaire issued on the subject and visited various places throughout the country. During the course of these visits, the Committee had both formal and informal discussions with both officials and non-officials comprising the representatives of various Women's and Voluntary Social Organisations, Bar Councils, Bar Associations, individuals, etc.

3.39 During the course of their deliberations and examination of the Dowry Prohibition Act, 1961 including the amendments made to the Act by various State Governments, Committee were informed that apart from the evils of the dowry system prevalent in the country, there were other areas relating to the rights, status and economic conditions from which the Indian women suffer. Various suggestions were offered for the all round development of the women in the Indian Society.

3.40 The Committee, after examining the provisions of the Dowry Prohibition Act, 1961 including the amendments made by various State Governments, feel that although the provisions contained therein are insufficient to deal effectively with the problem of dowry system and other matters, to suggest comprehensive changes would not strictly fall within the scope of the Act. However, considering the importance and urgency of the subject-matter and keeping in view the long-range welfare of the women-folk in general and the future brides in particular, the Committee have decided to make certain general recommendations for consideration of the Government apart from specific suggestions made for amendment of the Dowry Prohibition Act, 1961.

3.41 The Committee are of the opinion that with a view to eradicate the evils of the dowry system prevalent in the Indian society and to ensure that the women in India regain their lost identity and occupy a respectable and dignified position in the society, some drastic measures other than those suggested by way of amendments to the 1961 Act need to be evolved. The Committee, therefore, recommend that Government might consider the feasibility of regulating the following matters either by amending the existing legislations relevant to the subject matter or by processing suitable legislations, if necessary, or by issuing suitable instructions:—

- (1) Compulsory registration of marriages on the pattern of registration of births and deaths.
- (2) Creation of social awareness for eradication of the evils or dowry system through all publicity media, viz. Radio, Television, Press, etc.
- (3) Inclusion of educational material for the eradication of the evils of dowry system in the text-books from primary classes onwards.
- (4) Encouragement for inter-caste marriages.
- (5) Banning of pre-marriage ceremonies like 'Sagan', 'Thaka', "Tilak" etc.
- (6) Restriction on the number of guests, meals, decorations, etc. at marriage ceremonies.
- (7) Declaration by Government servants against giving or taking or demanding dowry.
- (8) Provision for investigation of cases of giving or taking dowry under the Income-tax laws.
- (9) Reservation of posts for women at various levels in the Central, State and Public undertakings services.
- (10) Provision of free legal aid to dowry victims.
- (11) Establishment of Family Courts.
- (12) Prevention of daughters-in-law from visiting their parents ought to be declared as an offence.
- (13) Provision of equal rights to sons and daughters in the inheritance and other related laws.
- (14) Enactment of a common civil code for the country.
- (15) In case of breakdown of marriage, the custody of a child or children to be given to the mother with maintenance allowance.
- (16) Denial of conjugal rights by the husband on the ground of non-receipt of dowry or insufficient dowry to be declared as a ground for divorce.

- (17) Persons convicted for any offence under the provisions of the Dowry Prohibition Act, 1961 to be disqualified for election to Parliament or State Legislatures or local bodies.
- (18) Each Panchayat should report to the concerned Dowry Prohibition Officer about individual cases of dowry victims or generally about the working of the Act in its area.
- (19) National Commission on Women with statutory powers to be set up both at Central and State levels.

3.42 Section 1.—Sub-section (2) of this Section of the Dowry Prohibition Act, 1961 provides that it extends to the whole of India except the State of Jammu and Kashmir.

3.43 The Committee feel that as the dowry system was being practised by all sections of the society throughout the country, the provisions of the Act should be made applicable to every citizen of India throughout the country including the State of Jammu & Kashmir. The Committee were informed that the provisions of the Act cannot be extended to the State unless the concerned entries of the Seventh Schedule to the Constitution are made applicable to that State.

3.44 The Committee are of the opinion that in order to eradicate the evils of dowry system prevailing in the country, it was essential that the provisions of the Act are extended to that State also. The Committee, therefore, recommend that Government might consider the feasibility of making the concerned entries applicable to that State so that the provisions of the Act could be extended to that State.

NEW DELHI;
August 10, 1982
Sravana 19, 1904 (Saka)

KRISHNA SAHI,
Chairman,
Joint Committee.

CHAPTER IV

MINUTES OF DISSENT

I

I agree with the Joint Committee's report except on one point *viz.* reservation of posts for women at various levels in the Central, State and Public Undertakings services. I suggest that the general recommendation made at serial number (9) of Part II of Chapter III, on page 31 may be *substituted* by "(9) Earmark the amount both in the Central and State Governments' budgets as well as plan budget for creating more employment opportunities for women".

The provision of reservation for women in job and services, I think will create more confusions. Such a provision in my view, far from helping women, will lead to social tensions. Already reservations provided for certain sections necessary as they are upto a stage have led to social tensions. The reservation for women will lead to social tension of different type.

I do agree that women's position in employment is very bad and that too only in unorganised sectors. Women in the organised sector form only 6 per cent of total women workforce in India and 11 per cent of the total workforce in the organised sector even after 35 years of independence. Women are being thrown out of employment due to modernisation and mechanisation. Protective legislations instead of protecting them have only resulted in throwing them out of employment. This position has to be changed. Only the political will of the Government will help to solve this problem. Instead of reservation, an earmarked amount in State and Central budgets as well as in the plan for creating more employment opportunities and providing more training facilities for technical skill for women will only help to improve the present position.

This is the reason for pressing for my amendment.

NEW DELHI;

SUSEELA GOPALAN

August 9, 1982

Shravana 18, 1904 (Saka)

II

While generally agreeing about the broad recommendations of the Joint Committee of the Houses to examine the Question of the Working of the Dowry Prohibition Act, 1961, I would like to record my minute of dissent regarding one significant aspect.

The report has recommended a ceiling on the value of the presents made voluntarily without compulsion or coercion either directly or indirectly to the bride by the parents, relatives, friends, etc. to the tune of twenty per cent of the income during the year preceding to the date of marriage of the bride's parents or the person bearing expenses on the bride's side or Rs. 15,000, whichever is less. I would like this limit to be reduced to ten per cent of the annual income or Rupees ten thousand, whichever is less.

I would like a definite provision in the concerned law to make it obligatory to declare the share of the bride in the property and wealth of her parents till the date of the marriage and ensure that her claim on the property and wealth of her parents even after marriage is respected.

NEW DELHI;

PRAMILA DANDAVATE

August 9, 1982

Shravana 18, 1904 (Saka)

AVTAR SINGH RIHKY,
Secretary.